

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

ECONOMIC DEVELOPMENT CORPORATION

**RULES AND REGULATIONS FOR THE
EXPEDITED PERMIT PROCESS**

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Effective Date: January 8, 2004

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RHODE ISLAND ECONOMIC DEVELOPMENT CORPORATION

RULES AND REGULATIONS FOR THE EXPEDITED PERMIT PROCESS

Section 1.00. Purpose

The State of Rhode Island and Providence Plantations, in an effort to promote a vigorous and growing economy, to prevent economic stagnation, and to encourage the creation of new job opportunities in order to ameliorate the hazards of unemployment and underemployment, reduce the level of public assistance, increase revenues to the State and its municipalities, and to achieve a stable and diversified economy, has developed an expedited permit review process, as set forth in Rhode Island General Laws, § 42-117-1 et seq., for projects of critical economic concern. The purpose of these rules and regulations is to implement the requirements of Chapter 117, Title 42 of the Rhode Island General Laws to provide a mechanism for business and industry to secure any necessary licenses or permits in an expeditious manner without waiving the lawful conditions of said licenses or permits.

Section 2.00. Legal Authority

These rules and regulations are promulgated pursuant to the requirements and provisions of the Expedited Permit Process Act, R.I.G.L. § 42-117-1 et seq., and particularly § 42-117-8 and the Administrative Procedures Act, R.I.G.L. § 42-35-1 et seq., and particularly § 42-35-3.

Section 3.00 Definitions

For the purposes of these regulations, the following terms shall have the following meanings:

- 3.01 “Authorization for Expedited Permit Review” (Authorization) means an authorization issued by the Rhode Island Economic Development Corporation (Corporation) as prescribed in R.I.G.L. § 42-117-4.
- 3.02 “Board of Directors of the Rhode Island Economic Development Corporation” (Board) means the board of directors of the Corporation established pursuant to R.I.G.L. § 42-64-1 et seq.

- 3.03 “Governor” means the Governor of the State of Rhode Island and Providence Plantations (State).
- 3.04 “Operational Stage” means the point at which the project is implemented and the project’s effect is realized.
- 3.05 “Person” means any natural person, company, corporation, quasi-public corporation, partnership, or any type of business entity.
- 3.06 “Project of Critical Economic Concern” (Project) means an undertaking designated by the Board to be significant, in its Operational Stage, by its ability to enhance, promote and encourage business, commerce and industry in Rhode Island and stimulate jobs and relieve underemployment and unemployment in Rhode Island pursuant to R.I.G.L. § 42-117-3.
- 3.07 “State Agency” means any office, department, board, commission, bureau, division, authority, public corporation, agency or instrumentality of the State.

Section 4.00. Request for Authorization for Expedited Permit Review

All requests for an Authorization shall be submitted to the Chairman of the Board of the Corporation, on application forms that may be obtained from the Corporation. Requests shall describe how the proposed Project will enhance, promote and encourage business, commerce and industry, stimulate jobs and relieve underemployment and unemployment in Rhode Island. Each request for an Authorization shall be accompanied by (a) a non-refundable filing fee, by check payable to the Corporation; in accordance with the table below:

Project Size	Filing Fee
Up to \$50,000,000	\$20,000
\$50,000,001 to \$75,000,000	\$30,000
\$75,000,001 to \$100,000,000	\$40,000
\$100,000,000 or more	\$50,000

and (b) a completed application for a state agency permit.

Any project which has been granted status as a “Project of the Economic Development Corporation” shall be granted an Authorization by submitting the appropriate fee, but without needing to file an application as described above.

Section 5.00. Procedure for Review

The Board shall review the request for an Authorization at its next regularly scheduled meeting, provided a completed application is received at least two weeks prior to the meeting, enabling the Expedited Permit Process Review Committee to review it and prepare a recommendation to the Board. The Expedited Permit Process Review Committee shall consist of:

1. The Deputy Director of the RIEDC
2. A designated RIEDC Senior Project Manager
3. RIEDC Corporate Counsel
4. Two (2) members of the Board of Directors of the RIEDC, appointed by the Executive Director of the RIEDC.

Pursuant to R.I.G.L. § 42-117-4, the Board shall issue a written decision within forty-five (45) days of its receipt of the request. If the Board finds the proposed project to be a Project of Critical Economic Concern, the Corporation shall issue an Authorization. If not, the Certificate shall be denied.

Section 6.00. Project Types Specifically Excluded

The following generic types of projects are excluded from consideration:

1. Non-Urban Residential Projects
2. Golf Course Development Projects
3. Any project which does not create a minimum of 100 new permanent jobs. This jobs number is the combination of full time and full time equivalent part-time jobs. The creation of secondary jobs in important industry sectors in the State may be included where demonstrable.
4. Any project which does not have a written favorable endorsement from the municipality in which the project will be located.

Section 7.00. Authorization Criteria

The Board shall consider the application with respect to the proposed project's benefits to the State, while also taking account of the economic benefits to the local community.

- 7.01 The Board shall issue an Authorization upon a finding that the proposed project will enhance, promote and encourage business, commerce and/or industry and stimulate jobs growth and relieve underemployment and unemployment in Rhode Island and that:
- (a) the Authorization is necessary to prosecute the proposed project in an expeditious manner;
 - (b) the proposed project is ready for permitting, with financing available and permit application(s) imminent.
 - (c) the municipality in which the project will be located is in support of the project.
- If a project fails to meet 7.01 (a), (b) or (c) above, the Application shall be rejected.

- 7.02 The following point scale shall be considered by the Board to determine whether a proposed project shall receive an Authorization:
- (a) the number, type and quality of permanent jobs (full time, plus part-time employees' full-time equivalents, expressed in terms of total payroll) which are anticipated to be created or retained by the proposed project;

Amount of Payroll	Points
\$3,500,000-\$5,250,000	10
\$5,250,001-\$10,500,000	15
\$10,500,001-\$17,500,000	20
\$17,500,001 or more	25

- (b) the potential State direct tax annual revenues to be generated from or retained by the proposed project;

Annual State Tax Revenue	Points
\$50,000 - \$100,000	5
\$100,001 - \$250,000	10
\$250,001 - \$500,000	15
More than \$500,001	20

(c) the potential municipal direct tax annual revenues to be generated from or retained by the proposed project;

Annual Municipal Tax Revenue	Points
\$200,000 - \$300,000	5
\$300,001 - \$500,000	10
\$500,001 - \$1,000,000	15
More than \$1,000,000	20

(d) the level of investment in the State;

Capital Investment	Points
\$10,000,001 - \$20,000,000	5
\$20,000,001 - \$50,000,000	10
More than \$50,000,000	15

(e) the proposed project's location within an Enterprise Zone;

If	Points
Yes	10
No	0

(f) the proposed project's involvement in the renovation or rehabilitation of a building certified under the Mill Building and Economic Revitalization Act, R.I.G.L. § 42-64.7-1 et seq., or remediation of a Brownfield site under the Industrial Property Remediation and Reuse Act, § 23-19.14-1 et seq.

If	Points
Yes	10
No	0

(g) the proposed project's use of minority contractors for at least 10% of the project's construction cost:

If	Points
Yes	5
No	0

(h) the proposed project's hiring of minority employees for at least 10% of the project's work force:

If	Points
Yes	5
No	0

Projects that will provide employee benefits (e.g., paid-time-off, and health and welfare plans) totaling 25% of base salary shall receive, as a bonus, five (5) additional points.

Projects that will provide employees access to educational and training opportunities (e.g. structured job-related training, cross-skills training, or tuition reimbursement) for employees shall receive, as a bonus, five (5) additional points.

Projects that demonstrate willingness to achieve demographic diversity among employees shall receive, as a bonus, five (5) additional points.

A project with a total score of 75 or greater shall be granted an Authorization.

Notwithstanding anything set forth in these regulations, a project that, in the opinion of the Board, provides substantial economic development opportunity for the State of Rhode Island may be granted a Certificate upon a finding of the Board that the project meets the intent of R.I.G.L. § 42-117-3.

Section 8.00. No Right to Review

A request for an Authorization shall not constitute a "contested case" under the Administrative Procedures Act, R.I.G.L. § 42-35-9. No opportunity to object to a request shall be afforded, nor shall judicial review be available from a decision rendered by the Board.

Section 9.00. Reconsideration of Board Decision

Any affected person may request in writing reconsideration of the Board's decision. Requests for reconsideration will be granted only where it can be demonstrated that there have been (i) significant changes in the proposed project's ability to meet the criteria as set forth in Section 6.00, or (ii) significant changes in factors or circumstances relied upon by the Board in reaching its decision. The Board shall consider the request for reconsideration at its next regularly scheduled meeting.

Section 10.00. Validity of Authorization

An Authorization shall be valid as to each and every state agency by which the Project must be licensed or permitted until the Project reaches its Operational Stage, or two (2) years from the date of issuance, unless extended for an additional period of up to two (2) years at the discretion of the Corporation's Executive Director. Upon written request to the Executive Director, the Corporation may, at its discretion, reissue a valid Authorization to a successor in interest, upon an affirmative finding by the Executive Director that the Project continues to meet the criteria for authorization.

Section 11.00. Rescission of Authorization

The Corporation may, by majority vote of the Board, revoke any Authorization upon a finding that:

- (a) the Project has been significantly altered in size, scope or impact since the Corporation's issuance of the Authorization; or
- (b) a state agency permit application has not been filed within three (3) months of the date of the Authorization's issuance.

Section 12.00. Action by State Agency

An Authorization may be filed with each and every state agency with licensing or permitting authority over a Project. The state agency shall give priority to the Project in the handling and processing of the application.

Section 13.00. Liberal Application

The terms and provisions of these rules and regulations shall be liberally construed to allow the Board and the Corporation to effectuate the purposes of state law, goals, and policies.

Section 14.00 Performance

An entity which has been granted a Certificate of Critical Economic Concern shall provide a report to the RIEDC certifying that it has met the jobs projections, tax generation, and other provisions stated in the application which justified the approval of the Certificate, in accordance with the timeframe specified in the application. This report shall be made at the time of completion of the project, or, for phased projects, at the completion of each phase.

Section 15.00 Penalties

An entity failing to meet the jobs projections, tax generation, and other provisions stated in the application that justified the approval of the Certificate shall be subject to a penalty equal to twice the original application fee.

Section 16.00. Severability

If a court of competent jurisdiction invalidates any provision of these rules and regulations, or their application to any local government unit or circumstance, the remaining rules and regulations will not be affected. The invalidity of any section or sections, or parts of any section or sections, shall not affect the validity of the remainder of these rules and regulations.

The foregoing rules and regulations, after due notice and an opportunity for hearing, are hereby adopted and filed with the Secretary of State this 15th day of December, 2003, to become effective twenty (20) days after filing, in accordance with the provisions of R.I.G.L. § 42-35-2(a)(2), § 42-35-3, and § 42-117-8.

December 19, 2003

Date

Robert I. Stolzman, Secretary

Adopted by RIEDC Board of Directors November 24, 2003

Filed with Secretary of State December 19, 2003